

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MALIBU MEDIA, LLC

For Online Publication Only

Plaintiff,

-against-

JOHN DOE, *subscriber assigned IP address*
67.87.252.52

Defendant.

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AZRACK, United States District Judge:

ORDER

17-CV-6914 (JMA)(SIL)

**FILED
CLERK**

8/7/2020 4:53 pm

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

Pending before the Court is the motion for default judgment by plaintiff Malibu Media, LLC (“Plaintiff”). (ECF No. 26.) After I referred the motion to Magistrate Judge Steven I. Locke for a report and recommendation on May 27, 2020, Judge Locke issued the Report and Recommendation (the “R&R”) on June 22, 2020. (ECF No. 27.) Judge Locke recommended that Plaintiff’s motion be granted, except for \$262.50 in costs Plaintiff requested for a process service fee. (*Id.*) On June 25, 2020, Plaintiff filed a supplemental invoice reflecting the \$262.50 process service fee. (ECF No. 28.) Defendant has not filed any objections.

In reviewing a magistrate judge’s report and recommendation, the Court must “make a de novo determination of those portions of the report or . . . recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* A court conducting a de novo review of an R&R may, of course, “receive further evidence.” *See* 28 U.S.C. § 636(b)(1)(C). A party, however, has no right to present such further evidence “when it offers no justification for not offering” the evidence earlier. Paddington Partners v. Bouchard, 34 F.3d 1132, 1137–38 (2d Cir. 1994). Those portions of a report and recommendation to which there is no specific reasoned

objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

Having undertaken a review of the record, the underlying motion papers, the R&R, and Plaintiff's supplemental invoice, I agree with Judge Locke's R&R and adopt it as the opinion of this Court. The Court has reviewed, de novo, Plaintiff's supplemental invoice, but finds that Plaintiff has offered no justification for not having offered this further evidence earlier. Having undertaken a review of the remainder of Judge Locke's R&R to which there has been no objection, I find no clear error.

The Court therefore adopts Judge Locke's comprehensive and well-reasoned R&R in its entirety as the opinion of this Court. Accordingly, Plaintiff's motion for default judgment is granted in part and denied in part. Plaintiff is directed to serve a copy of this Order on Defendant and file proof of service on ECF within seven (7) days. The Clerk of Court is respectfully directed to enter judgment accordingly and close this case.

SO ORDERED.

Dated: August 7, 2020
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE